

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
CrI. Misc. Application No.S-533 of 2022
(Lal Chand Menghwar Vs. The State & others)

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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1. For Orders on office objection.
2. For hearing of main case.

17-11-2023.

Mr. Achar Khan Gabole, advocate for the applicant.
 Mr. Shabbir Ali Bozdar, advocate for the private respondent.
 Mr. Shafi Muhammad Mahar, Deputy Prosecutor General.

1. Over ruled.
2. The applicant alleging death of his brother Fattu at the hands of proposed accused sought for direction against the police to record his FIR by making an application u/s 22 A/B Cr.P.C; it was dismissed by learned Additional Sessions Judge/Ex-Officio Justice of Peace, Daharki with the direction to the applicant to file the direct complaint of the incident vide order dated 16-09-2022, which is impugned by the applicant before this Court by preferring the instant CrI. Misc. Application u/s 561-A Cr.P.C.
2. It is contended by learned counsel for the applicant that it was a murder case; therefore, learned Ex-Officio Justice of Peace ought not to have dismissed the application of the applicant by way of impugned order, which is liable to be set aside.
3. Learned DPG for the State did not support the impugned order, however learned counsel for the proposed accused by supporting the impugned order has sought for dismissal of instant CrI. Misc.

Application by contending that the deceased was hit by the train and it was cause of his death, the applicant now is intending to involve the proposed accused in a false case malafidely.

4. Heard arguments and perused the record.

5. Whether the deceased died at the hands of proposed accused or hit by the train? It requires investigation. Investigation could only be conducted when formal FIR of the incident is registered; such registration of FIR could not be prevented under any circumstances. In these premises, the impugned order is set aside with direction to SHO PS Daharki to record statement of the applicant at his verbatim for purpose of FIR and then to conduct investigation in accordance with law.

6. Instant Crl. Misc. Application is disposed of accordingly.

Judge

